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REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO CA 95814-2922

C025/005 Incoming
CC: Jim
Priscilla
RECEIVED
NOV 16 2009
DIV. OF OIL, GAS & MINING

CERTIFIED MAIL RETURN RECEIPT REQUESTED

November 12, 2009

Regulatory Division SPK-2009-01008

Chris McCourt
Alton Coal Development, LLC
463 North 100 West, Suite 1
Cedar City, Utah 84721

Dear Mr. McCourt:

On October 1, 2009, we requested Alton Coal to submit a Wetlands Delineation Report for the Coal Hollow Mine Lower Robinson Creek Realignment project. The purpose of this letter is to inform Alton Coal that we have not received the Wetlands Delineation Report; therefore, we are unable to verify the extent of waters of the United States potentially affected by the proposed Coal Hollow Mine project.

Further, Regional General Permit (RGP) 40 authorization was only issued for the temporary relocation of approximately 1,500 linear feet of Lower Robinson Creek. Based on new information including the Utah Coal Regulatory Program's Technical Analysis for the Aton Coal Project dated Oct 15, 2009, it appears wetlands are located within the project area, in particular within Lower Robinson Creek and the overburden stockpile area. RGP 40 does not authorize impacts to wetlands and therefore would not be the appropriate authorization for this project. Any discharge into wetlands without an appropriate Department of the Army Permit would constitute and unauthorized activity. Prior to engaging in activities resulting in a discharge of dredged or fill material into these onsite wetlands, you need to submit the previously requested wetland delineation and permit application to our St. George office so that the Corps may determine if any additional authorizations are required.

Please refer to identification number SPK-2009-01008 in any correspondence concerning this project. If you have any questions, please contact Karen Clementsen at 321 North Mall Drive, Suite L-101, St. George, UT 84790-7310, email Karen.L.Clements@usace.army.mil, or telephone 435-986-1961. For more information regarding our program, please visit our website at www.spk.usace.army.mil/regulatory.html.

Sincerely,

Jason Gipson
Chief, Utah/Nevada Regulatory Branch

Copy furnished:

Charles Williamson, State of Utah Division of Water Rights, PO Box 146300, Salt Lake City, Utah 84114-6300

Darron Haddock, Utah Division of Oil, Gas and Mining, PO Box 145801, Salt Lake City, Utah 84114-5801

Keith Rigtrup, Bureau of Land Management, 176 East DL Sargent Drive, Cedar City, Utah 84721-9337